

an elastomeric material disposed between nonwoven facing layers in at least the interior portions to render the side panels elastomeric in a direction generally parallel to the transverse axis; and

a fastening system for releasably securing the absorbent [article] chassis in a pant-like configuration having a waist opening and a pair of leg openings, the fastening system comprising first and second fastening components adapted to releasably engage first and second mating fastening components, the first and second fastening components being connected to the respective first and second back side panels adjacent the distal edges, the first and second mating fastening components being connected to the respective first and second front side panels adjacent the distal edges, the fastening components and the mating fastening components each comprising mechanical fasteners having a length-to-width ratio of about 5 or greater, and engagement of the fastening components and mating fastening components defines refastenable seams that cover about 80 to 100 percent of [the] a distance between the waist opening and the leg openings.

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**Remarks**

The application contains claims 1-29. Claims 1, 2, 4, 6, 9, 14, 20, 21 and 29 have been amended with support for the amendments appearing in the specification and Figures. A **Clean Version Of Pending Claims** resulting from this Amendment is enclosed and made a part hereof. Reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

**A. Rejection Of Claims 1, 2, 4-6, 9, 14, 20, 21 and 29 Under 35 U.S.C. § 112**

Claims 1, 2, 4-6, 9, 14, 20, 21 and 29 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 1, 2, 4, 6, 9, 14, 20, 21 and 29 have been amended to address the terminology referenced by the Examiner. Regarding claim 5, Applicants note that the claim specifies the “longitudinally innermost parts of the front side panels” and the “longitudinally innermost parts of the back side panels.” In view of the foregoing, Applicants believe the rejection should be withdrawn.

**B. Rejection Of Claims 1-12 and 14-28 Under 35 U.S.C. § 102 (b)**

Claims 1-12 and 14-28 stand rejected under 35 U.S.C. § 102 (b) as being anticipated by U.S. Patent 5,782,819 issued July 21, 1998 to Tanzer et al. ("Tanzer"). Claims 1, 2, 4, 6, 9, 14, 20, 21 and 29 have been amended as noted above in relation to the § 112 rejection. Applicants respectfully traverse the rejection with respect to the claims as amended.

Tanzer discloses a diaper 20 including a fit panel 36 on an inside surface 66 in at least one of the waistband sections. Col. 3, lines 8-11. The fit panel 36 has a direction-dependent coefficient of friction value, to provide "more reliable and more consistent fit about the wearer with greater resistance to sagging and drooping." Col. 1, lines 49-56; see also col. 3, lines 8-29. Various locations of the fit panel are described in relation to Figures 1, 2 and 4-8.

The diaper 20 disclosed by Tanzer can have a refastenable fastening system including "a first portion of the mechanical fastener on the landing zone 78 and a second, cooperating portion of the mechanical fastener on the fastener tab 44." Col. 12, lines 3-14. The fastener tabs 44 are attached to side panels 90 and include hook material 46. Col. 14, lines 2-11. Tanzer states at col. 12, lines 15-27:

In the various embodiments of the invention, a tape fastener tab 44 can be located at either or both of lateral end regions 116 and 118 of either or both of the waistbands 38 and 40. The representatively shown embodiment, for example, has the fasteners [sic] tabs 44 located at the distal side edges of the rear waistband 40.

With reference to FIG. 1, for example, the article can include a system of side panel members 90. In particular arrangements, each side panel member 90 extends laterally from the opposed lateral ends of at least one waistband portion of backsheet 22, such as the representatively shown rear waistband portion 40, to provide terminal side sections of the article.

Independent claim 1 specifies among other features a "fastening system comprising first and second fastening components disposed on the back side panels and adapted to releasably engage first and second mating fastening components disposed on the front side panels; wherein a transverse distance between the first and second fastening components is substantially equal to a transverse distance between the first and second mating fastening components."

Tanzer does not disclose this feature, and thus the rejection under 35 U.S.C. § 102 is improper. The above-quoted statement in Tanzer indicating that a tape fastener tab can be located at either or both lateral end regions of either or both waistbands does not necessitate that the transverse distance between the fastening components would be substantially equal to the transverse distance between the mating fastening components. In fact, the transverse

distance would not be the same in Tanzer's illustrated diaper if tape fastener tabs were attached to the side edge regions 118 in the front waistband section 38, because the tape fastener tabs are attached to the side panel members 90 in the rear waistband section 40. Moreover, a construction of Tanzer with first and second fastening components disposed on the back side panels and first and second mating fastening components disposed on front side panels would destroy the adjustability feature of Tanzer, which Tanzer provides by having the hook material 46 engage a larger and centrally positioned landing zone 78.

Applicants have considered the Examiner's statement at page 5 of the Office Action:

The fastening system comprises first and second fastening components 80 disposed on the back side panels abutting the back waist edge (co. 11:63-67 through col. 12:1-20). The fastening components 80 are adapted to releasably engage first and second mating components 46. Fastening components 46 are attached to support members 44 which are disposed on the front side panels abutting the front waist edge (col. 11: 63-67 through col. 12:1-20).

Applicants disagree with the Examiner's characterization of Tanzer. Reference numeral 80 of Tanzer refers to "loop material." Tanzer discloses an "appointed landing zone 78" which can be centrally positioned "on the outward surface of the backsheet layer 22 and [ ] located on the front waistband portion 38" and formed of loop material 80. Col. 11, line 63 to col. 12, line 2. The "hook material 46 can be operably connected to the fastener tabs 44" to form a hook-and-loop system. Col. 12, lines 9-13. In the alternative, Tanzer discloses that "the loop material can be operably connected to the fastener tabs 44 and the hook material can be operably connected to the landing zone." Col. 12, lines 13-15.

Applicants further disagree with the Examiner's conclusion stated on page 5 of the Office Action:

In one embodiment of the '819 invention, the fastening components can be located at either or both waistbands in the side regions 90/116/118 (col. 12, lines 15-17). The transverse distance of side regions 116 and 118 are substantially equal, therefore, the transverse distance of any fastening components disposed on these regions would also be substantially equal.

As noted above, the fact that the transverse distance of the **side regions** are substantially equal does not take into account that Tanzer discloses side panels in the rear waistband 40.

For at least the foregoing reasons, Applicants submit that Tanzer does not anticipate the subject matter of claim 1 and the rejection should be withdrawn.

Dependent claims 2-12 are believed to define patentable subject matter for the reasons noted above in relation to independent claim 1. In addition with regard to claim 8, Applicants submit that Tanzer discloses a landing zone 78 located in the front waistband 38 and sized larger than the hook material 46, but Tanzer does not disclose a loop type fastener disposed on the inner surface of the absorbent chassis on the back side panels and sized larger than the mating hook type fasteners. With regard to claim 9, the Examiner references Figure 8A of Tanzer, but Figure 8A does not include a refastenable seam. Applicants submit that the front and back waist regions of Tanzer overlap significantly and the refastenable seams account for much less than about 90 percent of the distance between the waist opening and the leg openings. With regard to claim 10, none of the fastening components (46 or 78) of Tanzer abuts a waist edge.

Independent claim 14 specifies among other features a transverse distance between first and second fastening components being substantially equal to a transverse distance between first and second mating fastening components. As noted above in relation to claim 1, Tanzer does not disclose this feature. Additionally, claim 14 specifies a rectangular composite structure with side panels bonded to the composite structure in both the front and back waist regions. Tanzer does not disclose this feature. For the foregoing reasons, the rejection of independent claim 14 based on 35 U.S.C. § 102 is improper. Dependent claims 15-20 are believed to define patentable subject matter for the reasons noted above in relation to independent claim 14.

Independent claim 21 specifies among other features elastomeric side panels bonded to the composite structure in both the first and second waist regions, where the width of the elastomeric side panels in the first waist region is the same as the width of the elastomeric side panels in the second waist region. Because Tanzer does not disclose this feature, the rejection of independent claim 21 based on 35 U.S.C. § 102 is improper. Dependent claims 22-24 are believed to define patentable subject matter for the reasons noted above in relation to independent claim 21.

Independent claim 25 specifies among other features pairs of front and back side panels extending from the waist opening to each leg opening, and a pair of refastenable seams extending from the waist opening to each leg opening. Tanzer does not disclose this feature, and the rejection of independent claim 25 based on 35 U.S.C. § 102 is improper. The Examiner referenced Figure 8A of Tanzer in relation to claim 25, but Figure 8A does not include refastenable seams. Further, the Examiner has apparently taken the position that the

side panels of Tanzer extend from label F to label L or from label B to label L, as marked by the Examiner on Figure 1 of Tanzer. It is evident from the locations and sizes of the fasteners in Figure 1 of Tanzer that the front and back side panels overlap but that the fastening components and hence the refastenable seams would not extend from the waist opening to each leg opening. Dependent claims 26-28 are believed to define patentable subject matter for the reasons noted above in relation to independent claim 25.

Based on the foregoing, the rejection to claims 1-12 and 14-28 should be withdrawn.

**C. Joint Inventors**

The Office Action referenced Applicants' duty to point out the inventor and invention dates of each claim that was not commonly owned at the time the claimed invention was made. Applicants note for the record that the subject matter of each claim was commonly owned at the time the invention was made.

**D. Rejection Of Claims 13 and 29 Under 35 U.S.C. § 103(a)**

Claims 13 and 29 stand rejected under 35 U.S.C. § 103(a) as being obvious over Tanzer in view of U.S. Patent 5,087,253 issued February 11, 1992 to Cooper. Claim 29 has been amended as noted above in relation to the § 112 rejection. Applicants respectfully traverse the rejection with respect to the claims as amended.

Claim 13 depends ultimately from claim 1 and is believed to define patentable subject matter for the reasons noted above in relation to claim 1. Further, the Examiner posits at page 8 of the Office Action that it "would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the diaper of Tanzer with fasteners such as disclosed by Cooper in order to sufficiently hold the diaper on the user." Applicants submit that the Examiner is purely selecting and combining components based on Applicants' own specification. The references themselves provide no motivation or basis for the proposed combination. Tanzer discloses diapers with mechanical fasteners or bonded side seams. There is no suggestion in either reference that the fasteners of Tanzer are insufficient to hold the diaper on the user, or that the fasteners of Cooper would perform better. Moreover, Tanzer concerns refastenable products that are adjustable and incorporate elastic components, whereas Cooper generally concerns single size, non elastomeric products. Tanzer provides an adjustability feature by having the hook material 46 on the fastener tabs 44 engage a larger and centrally positioned landing zone 78. The proposed combination of

Tanzer and Cooper to provide first and second fastening components disposed on the back side panels and first and second mating fastening components disposed on the front side panels would appear to destroy the adjustability feature of Tanzer.

Independent claim 29 specifies among other features a rectangular composite structure, pairs of side panels bonded to the composite structure in the front and back waist regions, and refastenable seams that cover about 80 to 100 percent of a distance between the waist opening and the leg openings. As noted previously, Tanzer does not disclose these features. Moreover, Tanzer and Cooper are not properly combinable for the reasons noted above in relation to claim 13. Accordingly, claim 29 is believed to define patentable subject matter.

Based on the foregoing, the rejections to claims 13 and 29 should be withdrawn.

#### **E. Information Disclosure Statements**

The Examiner's attention is drawn to the Supplemental Information Disclosure Statements that were mailed on May 3, 2001 and June 12, 2001. The Examiner is requested to make of record receipt and review of the documents listed therein.

#### **F. Conclusion**

The application now contains claims 1-29 which are believed to be in condition for allowance. Applicants would like to thank the Examiner for the careful attention paid to the present application. Early allowance of the claims in view of the above remarks is earnestly requested.

Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875.

The undersigned may be reached at: (920) 721-3617.

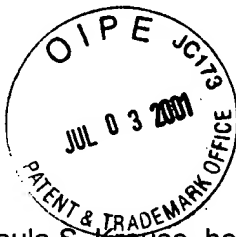
Respectfully submitted,

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